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September 30, 2003

Paula Foley, Esquire, Hearing Officer
Department of Telecommunications & Energy
One South Station, 2nd Floor
Boston, MA 02110

Re: D.T.E. 03-60

Dear Ms. Foley:

Verizon Massachusetts (“Verizon MA”) files these comments concerning the draft Protective Order which you circulated on September 25, 2003, in this matter. The draft agreement is comprehensive and will serve to protect the Confidential Information that carriers will produce in response to discovery issued in the case. Verizon MA suggests that the Department consider revising the Order in only three respects.

First, section 3 of the Order specifies certain classes of individuals who may receive Confidential Information subject to the Order. Verizon MA has a concern that the classes of in-house personnel identified in the draft (*i.e.*, economists and regulatory analysts) may not cover all management personnel that will be required to assist counsel in preparing initial or responsive presentations. For example, there may be a need for operational or technical management employees to review Confidential Information, but a strict reading of the draft Order may exclude such employees from obtaining access. Verizon MA does not believe that the Department’s classification of personnel was intended to be this restrictive on the ability of companies to use appropriate in-house employees to prepare their cases. Accordingly, Verizon MA suggests that the Department make the changes to section 3 highlighted below.

Permissible Disclosure. Notwithstanding paragraph 1, Confidential Information may be disclosed subject to the provisions of subparagraphs (a) and (b), to the following persons if disclosure is reasonably necessary for such persons to render professional services in this proceeding: counsel of record for participants that may file in this proceeding, including in-house counsel who are actively involved in the conduct of this proceeding;

partners, associates, secretaries, paralegal assistants, and employees of such counsel; outside consultants or experts retained to render professional services in this proceeding, provided that they are under the supervision of the counsel of record; and in-house **employees (such as economists, operational, technical, and regulatory personnelanalysts) who are actively engaged in the conduct of this proceeding**, provided that they are under the supervision of the counsel of record. Such documents may also be disclosed to relevant employees of regulatory agencies, Department employees involved in this proceeding, and to any person designated by the Department in the interest of justice, upon such terms as the Department may deem proper.

Second, section 3(b) enables a participant producing Confidential Information to object to an individual whom another participant identifies as a potential recipient of that information. This provision is reasonable since there may be instances in which a producing party may have concerns with an identified individual because of the scope of his or her job functions. Accordingly, Verizon MA suggests that, when a participant identifies an individual to receive Confidential Information, it include the job title of that individual. Verizon MA's suggested change is noted below.

Before disclosing Confidential Information to any person who is listed in paragraph 3 (other than an attorney, secretary, paralegal assistant or other employee of such attorney) and who is employed by a competitor or potential competitor of the participant that so designated the information, counsel for the participant seeking such disclosure shall give at least five (5) business days' advance notice in writing to the counsel who designated such information as confidential, stating the names, **job titles**, and addresses of the person(s) to whom the disclosure will be made, identifying with particularity the documents to be disclosed, and stating the purpose of such disclosure. If, within the five-day period, a motion is filed objecting to the proposed disclosure, disclosure is not permissible until the Department has denied such motion and disclosure is permitted. Any such motion shall be served by hand on the participant seeking such disclosure.

Finally, Verizon MA recommends that the Department delete section 7(b) of the draft Order. Section 7(a) expressly states that Confidential Information will be placed on a seal record if offered by any participant as evidence in the case, thereby ensuring that Confidential Information is not placed on the public record. The process outlined in section 7(b) simply imposes an unnecessary burden on participants during the hearing stage of the case.

Mary L. Cottrell, Secretary
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In summary, Verizon MA recommends that the Department adopt the draft Protective Agreement with the three changes suggested above.

Sincerely,

Bruce P. Beausejour

cc: Michael Isenberg, Esquire, Director-Telecommunications Division
April Mulqueen, Esquire, Assistant Director-Telecommunications Division
Peter Allen, Analyst
Berhane Adhanom, Analyst
Debra Conklin, Analyst
Ashish Shresta, Analyst
Mary L. Cottrell, Secretary
Attached D.T.E. 03-60 Service List